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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,865	09/09/2003	Roger M. Snow	PA0905.ap.US	5175

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EXAMINER

PIERCE, WILLIAM M

ART UNIT PAPER NUMBER

3711

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/658,865

**Applicant(s)**

SNOW, ROGER M.

**Examiner**

William M. Pierce

**Art Unit**

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 11-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

WILLIAM M. PIERCE  
Patent Examiner

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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**DETAILED ACTION**

Applicant's election with traverse of claims 1-10 in the reply filed on 11/07/05 is acknowledged. The traversal is on the ground(s) that he believes the claims are distinct. This is not found persuasive because distinct requires that two or more inventions are related (i.e., not independent) if they are disclosed as connected in at least one of design (e.g., structure or method of manufacture), operation (e.g., function or method of use), or effect. While both groups show methods of playing cards, that alone does not mean that they are not distinct and capable of separately supporting their own patent. It is clear from applicant's analysis that claims 1 and 11 are not connected in operation. Specifically, the invention of claim 1 requires that a player receive at least one more card, expose one of the dealers cards and compelling the dealer to discard either and exposed or unexposed card under predefined conditions. None of these physical steps are performed by the invention of claim 11 which sets for the physical steps of allowing two independent ante and for a player to withdraw at least one of the ante. Related inventions are distinct if the inventions as claimed are not connected in at least. Clearly the inventions of claim 1 and 11 are different in operation and are novel and nonobvious over each other. Basically the invention of claim 11, could not be used to anticipate or render obvious the invention of claim 1. Likewise, each claimed method sets forth a different combination of required step and the search and examination of all the claims in an application can be made without a serious burden due to the greater search required and additional limitations that must be considered with both inventions.

The requirement is still deemed proper and is therefore made FINAL.

***Claim Rejections - 35 USC § 112***

Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1 and 6, the step of "exposing" is inferential and unclear such that one cannot determine the metes and bounds for the claim. Previous steps are silent as to whether the cards are dealt face up or face down. This latter step of exposing requires one to infer that cards must be dealt face down in order for a card to be exposed. Suggested is to amend the receiving of the dealers cards to positively recite exposed and unexposed. This amendment would further lend clarity to the claims latter reference to "an unexposed dealer's card". In the last paragraph, "(the) rules or the poker type game" lacks a proper antecedent. Further "poker type" is indefinite. The addition of the word "type" to an otherwise definite expression (e.g., Friedel-Crafts catalyst) extends the scope of the expression so as to render it indefinite. Ex parte Copenhaver, 109 USPQ 118 (Bd. App. 1955). Claims 4 and 9 lack

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a structural relationship that makes it clear how making "play wager" relates to the previously recited steps. In the last paragraph of claim 6, "the at least one ante wager".

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tomaszewski, Jones, Moore, Snow, Foster, Cabot and Snow show wagering games having a dealer discard. However, they do not show a dealer card compelled on the rank of the unexposed card or allowing a player to withdraw his ante after a discard by the dealer.

### ***Conclusion***


Any inquiry concerning this communication and its merits should be directed to William Pierce at E-mail address [bill.pierce@USPTO.gov](mailto:bill.pierce@USPTO.gov) or at telephone number (571) 272-4414.

For **official fax** communications to be officially entered in the application the fax number is (703) 872-9306.

For **informal fax** communications the fax number is (703) 308-7769.

Any inquiry of a general nature or relating to the **status** of this application or proceeding can also be directed to the receptionist whose telephone number is (703) 308-1148.

Any inquiry concerning the **drawings** should be directed to the Drafting Division whose telephone number is (703) 305-8335.



WILLIAM M. PIERCE  
PRIMARY EXAMINER